

Appl. No. 09/678,480
Amendment and/or Reply
Accompanying RCE

Page 14 of 18

3. REMARKS / DISCUSSION OF ISSUES

Claims 1-54 are pending in the application. Claims 1, 19 and 37 are in independent form.

Unless indicated otherwise, claims are amended for non-statutory reasons: to correct one or more informalities, remove figure label number(s), and/or to replace European-style claim phraseology with American-style claim language.

I. Drawings

Applicants gratefully acknowledge acceptance of the drawings.

II. Rejections under 35 U.S.C. § 102(b)

Claims 1-8, 10-14 and 16-18 are rejected under 35 U.S.C. § 102(e) in view of *Daudelin* (U.S. Patent 6,972,807). For at least the reasons set forth herein, it is respectfully submitted that this rejection is improper and should be withdrawn.

A proper rejection for anticipation "...requires, as the first step in the inquiry, that all the elements of the claimed invention be described in a single reference." *In re Spada* 15 USPQ2d 1655, 1657 (1990). A necessary corollary to the test of anticipation is that "...the absence from the reference of any claimed element negates anticipation." *Kloster-Speedsteel AB v. Crucible, Inc.* 230 USPQ 81, 86 (CAFC 1986).

a. Daudelin does not disclose first and second signal strength thresholds as claimed

Claim 1 is drawn to a method of managing fingers for multipath signals in a wireless communication device. The method includes, inter alia:

"...enabling said finger assignment for a combine operation if said signal-strength for said finger assignment satiates a first signal-strength threshold; and preventing said finger assignment from being deassigned if said signal-

Atty. Docket No. US 008631

Appl. No. 09/678,480
Amendment and/or Reply
Accompanying RCE

Page 15 of 18

strength of said finger assignment satiates a second threshold, said second signal-strength threshold being less than said first signal-strength threshold."

Claims 19 and 37 include similar features.

Fig. 3 of the filed application shows a graph of an exemplary multipath signal, to which a time threshold and a SNR threshold is applied is shown, in accordance with an embodiment. Graph 300 has an abscissa of time 322 and an ordinate of SNR 320, which can also be illustrative of signal power, assuming a constant noise level. Fourth multipath signal 106d is shown as an exemplary signal charted over a period of time. A first SNR threshold, multipath acceptance threshold (T_{ACCEPT}) 326, represents the threshold for which the multipath management will consider a multipath ACCEPT operation for the multipath signal in question. In conjunction with the T_{ACCEPT} 326 threshold, the present embodiment also shows the number threshold of measurement for acceptance (N_{ACCEPT}) 322 that represents a time threshold over which the signal-to-noise ratio of the signal must be maintained above T_{ACCEPT} wherein the signal strength of the multipath signal is above T_{ACCEPT} for N_{ACCEPT} consecutive times of searcher measurements. As shown in Figure 3, fourth multipath signal 106d fails to satiate both these thresholds in time span 3 343. However, fourth multipath signal 106d does satiate both of these thresholds as shown in time span 1 341. While the present embodiment utilizes both a SNR threshold and a time threshold to consider a multipath ACCEPT operation for the multipath signal, the present invention is well-suited to using only a SNR threshold.

Figure 3 also shows a second SNR threshold, multipath rejection threshold (T_{REJECT}) 328, which represents the threshold for which the multipath management will consider a REJECT operation for the multipath signal in question. In conjunction with the T_{REJECT} 328 threshold, the present embodiment also shows the number threshold of measurement for rejection (N_{REJECT}) threshold 324 that represents a time threshold over which the strength of the signal must be below T_{REJECT} for the multipath REJECT operation to proceed.

By contrast, at the portion relied upon in the present rejection, the reference to *Daudelin* discloses a finger assignor 404 that analyzes a composite signal and

Atty. Docket No. US 008631

Appl. No. 09/678,480
Amendment and/or Reply
Accompanying RCE

Page 16 of 18

searches for strong constituent signals that are appropriate to assign to a finger. The assignor 404 also compares the signal quality of each constituent signal to a re-assignment threshold in parallel. The reference also discloses a finger de-assignor 410 that analyzes the assigned signals and determines whether any are spurious. If the assigned constituent signal(s) is spurious, the de-assignor orders the rake receiver 407 to de-assign the signal from the associated finger. This portion of the reference notes that a spurious signal may be determined by having the signal quality fall below a de-assignment threshold, for example.

Plainly, the reference to *Daudelin* discloses de-assignment of constituent signals based on a de-assignment threshold. However, the reference does not disclose preventing the finger assignment from being *deassigned if said signal-strength of said finger assignment satiates a second threshold, said second signal-strength threshold being less than said first signal-strength threshold* as is specifically recited in claims 1, 19 and 37. (Kindly refer to column 6, line 21 through column 7, line 50 of *Daudelin* for support for the above assertions.)

b. Analysis of Obviousness is Improper in a Rejection for Anticipation

At page 2 of the Office Action, Applicants previous arguments regarding the first and second signal-strength thresholds are discussed. The Examiner asserts that the selection of SNR or absolute power would have been obvious in view of the disclosure of *Daudelin*. Without delving into the merits of the reference, it is respectfully submitted that any reliance on obviousness in attempting to provide a rejection under 35 U.S.C. § 102(e) is improper.

For at least the reasons set forth above, it is respectfully submitted that a *prima facie* case of anticipation has not been made. Thus, the rejection of claim 1 is improper and should be withdrawn. Allowance of claims 1, 19, 37 and the claims that depend therefrom is earnestly solicited.

II. Rejections under 35 U.S.C. § 103(a)

Atty. Docket No. US 008631

Appl. No. 09/678,480
Amendment and/or Reply
Accompanying RCE

Page 17 of 18

Claims 9, 15 and 19-54 are rejected over *Daudelin* in view of other secondary references. Claim 19, which was discussed above in connection with the reference to *Daudelin* includes features that the Office admits are lacking in the reference to *Daudelin*. This notwithstanding, for the reasons set forth above, it is respectfully submitted that claim 19 is patentable over *Daudelin*. All remaining claims rejected under this section of the Code depend from independent claims 1, 19 and 37. Therefore, and while in no way conceding to the propriety of the rejection, Applicants respectfully submit that all dependent claims are patentable over the applied art at least because of their dependence on patentable base claims.

III. Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Atty. Docket No. US 008631

Appl. No. 09/678,480
Amendment and/or Reply
Accompanying RCE

Page 18 of 18

Respectfully submitted,



William S. Francos, Esq.
Reg. 38,456

April 10, 2006
Volentine, Francos & Whitt, PLLC
Treeview Corporate Center
Two Meridian Boulevard
Wyomissing, PA 19608

(610) 375-3513

Atty. Docket No. US 008631